

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

United States Courts
Southern District of Texas
FILED

FEB 02 2010

CASE NO. C-09-236 SS

, Clerk of Court

UNITED STATES OF AMERICA

vs.

ELEAZAR CASTILLO GARCIA
MARGUERITE JEANNETTE GARCIA
JOHN D MARTINEZ
FRANK D MARTINEZ

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)(Judge Janis Graham Jack
)(
)(Courtroom Deputy Sondra Scotch
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)(Court Reporter/Recorder Velma Gano
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)(Proceeding: Jury Trial
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)(Date: February 2, 2010
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)(Exhibit List of: Govt
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)(Attorney: Rex Beasley

Exhibit no.	Description	Marked	Offered	Object	Admitted	Not Admitted
1	Cease and Desist Order from Texas Board of Orthotics and Prosthetics 10-9-01	✓	✓		2/2/10	
2	Certified mail return receipt for exhibits 1 and 22	✓	✓		2/2/10	
3	Eleazar Garcia application for orthotic license without exam 2-2-99	✓	✓		2/2/10	
4	Letter addendum 3-31-99 to license application (Exhibit 3)	✓	✓		2/2/10	
5	OSDME "Dear Healthcare Provider" letter	✓	✓		2/2/10	
6	Eleazar BOP Registration Certificate 1-1-01	✓	✓		2/2/10	
7	OSDME Check 2792 and receipt and payment coupon	✓	✓		2/2/10	
8	Eleazar Garcia application for orthotic license without exam 5-7-99	✓	✓		2/2/10	
9	OSDME Check 3113 and receipt and payment coupon	✓	✓		2/2/10	

Exhibit no.	Description	Marked	Offered	Object	Admitted	Not Admitted
10	Eleazar Garcia orthotic license examination registration 10-5-99	✓	✓		2/2/10	
11	TBOP letter to Eleazar Garcia 11-9-99 re failed examination	✓	✓		2/2/10	
12	OSDME Facility application 6-15-99	✓	✓		2/2/10	
13	Photograph of exterior of OSDME	✓	✓		2/2/10	
14	OSDME Check 3208 for payment of application fee with receipt	✓	✓		2/2/10	
15	OSDME Sample patient information form and patient notes form	✓	✓		2/2/10	
16	OSDME Sample of Certificate of medical necessity and script	✓	✓		2/2/10	
17	TBOP letter 1-04-00 denying accreditation to OSDME	✓	✓		2/2/10	
18	TBOP letter 3-27-00 re granting facility accreditation to OSDME	✓	✓		2/2/10	
19	TBOP letter 10-24-00 to OSDME	✓	✓		2/2/10	
20	Eleazar Garcia registration 3-11-00 for orthotic licensing exam on 4-15-00	✓	✓		2/2/10	
21	TBOP 4-15-00 exam results 5-04-00	✓	✓		2/2/10	
22	TBOP Letter to Eleazar Garcia 10-10-01.	✓	✓		2/2/10	
23	TBOP 10-16-01 Report of contact with Eleazar Garcia on 10-15-01	✓	✓		2/2/10	

Exhibit no.	Description	Marked	Offered	Object	Admitted	Not Admitted
24	TBOP fax cover to Eleazar Garcia 10-15-01 re examination registration	✓	✓		2/2/10	
25	Eleazar Garcia registration to take orthotic licensing examination 10-16-01	✓	✓		2/2/10	
26	Results of licensing exam taken by Eleazar Garcia on 10-27-01	✓	✓		2/2/10	
27	TBOP letter to Eleazar Garcia 11-14-01 re failed exam with certified mail receipt for letter	✓	✓		2/2/10	
28	TBOP letter to Eleazar Garcia 11-14-01 re failure of OSDME to designate licensed PIC and proposal to revoke accreditation with certified mail receipt for letter.	✓	✓		2/2/10	
29	Letter from Sixto Vargas 11-28-01 to TBOP	✓	✓		2/2/10	
30	Letter from TBOP to Sixto Vargas 12-06-01	✓	✓		2/2/10	
31	TBOP notes of call with Jeanette Garcia 12-14-01	✓	✓		2/2/10	
32	Letter to TBOP from Sixto Vargas 12-19-01	✓	✓		2/2/10	
33	Letter from TBOP to Eleazar and Jeanette Garcia 12-20-01	✓	✓		2/2/10	

Exhibit no.	Description	Marked	Offered	Object	Admitted	Not Admitted
34	Fax from Eleazar Garcia to TBOP with excerpts from the Orthotics Practice Act	✓	✓		2/2/10	
35	TBOP letter to Eleazar Garcia 1-14-02 re requirement for license and OSDME expired facility accreditation.	✓	✓		2/2/10	
36	TBOP report of contact from Stephen Johnson of Medicaid 1-14-02	✓	✓		2/2/10	
37	Fax from Stephen Johnson 1-14-02 regarding revocation of Medicare number	✓	✓		2/5/10	
38	Letter from Medicare to Eleazar Garcia 1-14-02 revoking OSDME Medicare Supplier Number as of 12-31-01	✓	✓		2/5/10	
39	Letter 2-22-02 to TBOP from OSDME signed by John Martinez and Frank Martinez	✓	✓		2/2/10	
40	Letter 2-22-02 to Medicare from OSDME seeking reinstatement of OSDME Medicare supplier number	✓	✓		2/2/10	
41	OSDME Facilities Renewal Application signed by Jeanette Garcia 2-22-02 and submitted to TBOP 3-01-02	✓	✓		2/2/10	
42	Fax letter from John Martinez to TBOP 3-04-02	✓	✓		2/2/10	
43	Texas Administrative Code Chapter 821 excerpts					
44	TBOP fax to John Martinez 3-12-02 re approved facility accreditation for OSDME	✓	✓		2/2/10	

Exhibit no.	Description	Marked	Offered	Object	Admitted	Not Admitted
45	Medicare Hearings and Appeals Assignment Sheet from Tanya	✓	✓		2/2/10	
46	Medicare Contact/Progress notes re Tanya's calls on 3-12-02 with TBOP and Jeanette Garcia	✓	✓		2/2/10	
47	Fax from TBOP to Medicare 3-12-02 with approved facility accreditation for OSDME	✓	✓		2/2/10	
48	OSDME fax to Medicare on 3-12-02 with Copies of Licenses of John Martinez and Frank Martinez	✓	✓		2/2/10	
49	Letter from Medicare to OSDME re reinstatement as of 3-4-02	✓	✓		2/5/10	
50	TBOP Letter to John Martinez 3-21-02 re accreditation of OSDME as Orthotics Facility only	✓	✓		2/2/10	
51	TBOP Letter to John Martinez 3-28-02 re Eleazar Garcia practicing without a license	✓	✓		2/2/10	
52	Certified mail receipt for exhibit 51	✓	✓		2/2/10	
53	E-mail from John Martinez to TBOP 4-1-02 in response to letter.	✓	✓		2/2/10	
54	Eleazar Garcia letter to TBOP 11-1-02	✓	✓		2/2/10	
55	OSDME Facility Accreditation Renewal application 6-18-03	✓	✓		2/2/10	
56	TBOP Letter to Jeanette Garcia 7-17-03 re floor plan	✓	✓		2/2/10	

Exhibit no.	Description	Marked	Offered	Object	Admitted	Not Admitted
57	Fax From Jeanette Garcia to TBOP 9-17-03 with floor plan	✓	✓		2/2/10	
58	Fax to TBOP from Jeanette Garcia 9-19-03 with Testimonial from John Martinez	✓	✓		2/2/10	
59	Fax to TBOP from Eleazar Garcia 3-22-05 with Registration form to take orthotics licensing examination	✓	✓		2/2/10	
60	TBOP fax to Eleazar Garcia on 3-24-05 confirming registration for 4-22-05 examination	✓	✓		2/2/10	
61	TBOP letter to Eleazar Garcia re: failed 4/22/005 examination	✓	✓		2/2/10	
62	Record of Eleazar Garcia's failure to pass April 2007 Orthotic Licensing examination	✓	✓		2/2/10	
63	Record of Eleazar Garcia's failure to pass November 2007 Orthotic Licensing examination	✓	✓		2/2/10	
64	John Martinez letter to TBOP 12-23-08 rescinding PIC status	✓	✓		2/2/10	
65	Jeanette Garcia letter re intent to surrender facility license 1-02-09	✓	✓		2/2/10	
66	SAOAL Facilities Accreditation Application Signed by John Martinez on 9-27-04 and submitted to TBOP on 11-4-04	✓	✓		2/2/10	

Exhibit no.	Description	Marked	Offered	Object	Admitted	Not Admitted
67	Wilson Group Admin. Support Search Assignment	✓	✓		2/3/10	
68	Wilson Group fax to Teri Klein 2-4-02	✓	✓		2/3/10	
69	Teri Klein fax to Wilson Group 2-04-02	✓	✓		2/3/10	
70	Wilson Group fax to Teri Klein 2-06-02	✓	✓		2/3/10	
71	Teri Klein fax to Wilson Group 2-06-02	✓	✓		2/3/10	
72	Notes of Becky Bryant of the Wilson Group					
73	Wilson Group invoice 30927 work sheet	✓	✓		2/3/10	
74	Wilson Group invoice 30927 dated 2-28-02 for \$5,000	✓	✓		2/3/10	
75	OSDME check 3329 to the Wilson Group 3-05-02 for \$5,000					
76	Fax cover sheet from John Martinez to Eleazar Garcia 4-03-02 and pages 2-5 of the Agreement for the Provision of Orthotic and Prosthetic Services and Support between SAOAL and OSDME provided by Eleazar and Jeanette Garcia on 11-28-06	✓	✓		2/2/10	
77	John Martinez letter to Blue Cross and Blue Shield dated 5-18-09	✓	✓		2/3/10	
78	Teresa Klein complaint statement to TBOP September 06					

Exhibit no.	Description	Marked	Offered	Object	Admitted	Not Admitted
79	Texas Workforce Commission records of quarterly reports of employees 2002 to 2008	✓	✓		2/3/10	
80	OSDME Medicaid Provider Application 1-23-96	✓	✓		2/4/10	
81	OSDME Medicaid Provider Agreement 1-23-96	✓	✓		2/4/10	
82	OSDME Medicaid Provider Agreement 6-4-99	✓	✓		2/4/10	
83	Blank CMS 1500 claim form	✓	✓		2/4/10	
84	CD of OSDME Medicare claims from 3-4-02 through 12-23-08 (excluding dates of service on Tuesdays)					
85	Summary Chart of claims from Exhibit 84					
86	CD of OSDME Medicaid claims from 3-4-02 through 12-23-08 (excluding dates of service on Tuesdays)					
87	Summary Chart of claims from Exhibit 86					
88	OSDME Medicare Supplier Number Application 11-21-95	✓	✓		2/5/10	
89	OSDME Medicare Health Care Provider/Supplier Enrollment Application 6-26-01	✓	✓		2/5/10	
90	Medicare Supplier Standards 42 CFR §424.57					
91	Eleazar BOP Registration Certificate 1-1-01					

Exhibit no.	Description	Marked	Offered	Object	Admitted	Not Admitted
92	Fax to Medicare from Michael Park on 11-29-01 with copy of his complaint to TBOP about Eleazar Garcia Cease and Desist Order to Eleazar Garcia dated 10-9-01					
93	TBOP Fax to Medicare 1-14-02 with copy of TBOP letter to Eleazar Garcia 1-14-02	✓	✓		2/2/10	
94	OSDME Medicare Federal Health Care Provider/Supplier Enrollment Application Re-Enrollment 5-24-04	✓	✓		2/2/10	
95	CMS fax to OSDME 8-13-04 regarding missing signature on Re-enrollment application.	✓	✓		2/2/10	
96	OSDME Re-enrollment application Signature page and Certification Statement 6-9-04	✓	✓		2/2/10	
97	Jeanette Garcia Certification Statement to Medicare 6-30-04	✓	✓		2/2/10	
98	OSDME patient file pertaining to Cierah Lackey (Count 2)	✓	✓		2/2/10	
98A	OSDME - Fax 3 pages	✓	✓		2/4/10	
99	OSDME patient file pertaining to Cipriano (Cip) Deleon (Count 3)	✓	✓		2/2/10	
99 (a)	OSDME patient file pertaining to Cipriano (Cip) Deleon (Count 6)	✓	✓		2/2/10	

Exhibit no.	Description	Marked	Offered	Object	Admitted	Not Admitted
99 (b)	OSDME patient file pertaining to Cipriano (Cip) Deleon	✓	✓		2/4/10	
100	OSDME patient file pertaining to Enedelia Requenez (Count 4)	✓	✓		2/2/10	
101	OSDME patient file pertaining to Elma Valadez (Count 5)	✓	✓		2/2/10	
101(a)	OSDME patient file pertaining to Elma Valadez (Count 7)	✓	✓		2/2/10	
101(b)	OSDME patient file pertaining to Elma Valadez (Count 12)	✓	✓		2/2/10	
102	OSDME patient file pertaining to Rosalie Porter (Count 8)	✓	✓		2/2/10	
103	OSDME patient file pertaining to Santiago Guzman (Count 9)	✓	✓		2/2/10	
104	OSDME patient file pertaining to Rosa Garcia Balboa (Count 10)	✓	✓		2/2/10	
105	OSDME patient file pertaining to Jo Ann Saenz (Count 11)	✓	✓		2/2/10	
105(a)	OSDME patient file pertaining to Jo Ann Saenz (Count 13)	✓	✓		2/2/10	
106	OSDME patient file pertaining to Elvira Limon	✓	✓		2/3/10	
106(a)	Original of page 9 from Exhibit 106.	✓	✓		2/3/10	

Exhibit no.	Description	Marked	Offered	Object	Admitted	Not Admitted
107	Copy of Orthotics and Prosthetics Act from files of OSDME (Bates 00513 to 00518)					
108	Copy of TBOP Rules from files of OSDME (Bates 00519 to 00521)					
109	Excerpts from 23 Texas Register 11108 October 30, 1998 regarding chapter 821 of the Texas Administrative Code (TBOP) from files of OSDME (Bates 00522 to 00564)					
110	Letter from OSDME to Senator Truan on 4-6-99					
111	TBOP Presentation Handouts of Meeting 4-10-99 from OSDME file bates 00361 to 00368					
112	Letter to TBOP from Jeanette Crout 10-27-99 re unlicensed individuals					
113	Copies of OSDME bank checks to SAOAL	✓	✓		2/3/10	
113(a)	Bank Statements re: hard to read copies of checks in Exhibit 113	✓	✓		2/3/10	
114	Summary chart of Exhibit 113	✓	✓		2/8/10	
115	Eleazar Garcia ABC Certified Fitter Application 8-8-07	✓	✓		2/2/10	
116	John Martinez ABC Supervisor's Attestation 8-8-07	✓	✓		2/2/10	

Exhibit no.	Description	Marked	Offered	Object	Admitted	Not Admitted
117	ABC letter to Eleazar Garcia 10-1-07	✓	✓		2/2/10	
118	ABC Facility Accreditation Application from OSDME 6-5-07	✓	✓		2/9/10	
119	ABC letter to OSDME 12-17-07 denying full ABC facility accreditation and requesting Corrective Action Plan	✓	✓		2/2/10	
119(a)	May 6, 2009 letter from ABC to US Attorney's Office					
120	ABC Facility Accreditation Application from SAOAL 8-30-06	✓	✓		2/2/10	
121	Excerpts from ABC Code of Professional Responsibility					
122	Excerpts from ABC Canons of Ethical Conduct					
123	Excerpts from Medicaid Provider Manual 2002	✓	✓		2/4/10	
124	Excerpts from Medicaid Provider Manual 2003					
125	Excerpts from Medicaid Provider Manual 2004					
126	Excerpts from Medicaid Provider Manual 2005					
127	Excerpts from Medicaid Provider Manual 2006					
128	Excerpts from Medicaid Provider Manual 2007					
129	Excerpts from Medicaid Provider Manual 2008					

Exhibit no.	Description	Marked	Offered	Object	Admitted	Not Admitted
130	SAOAL/OSDME records of Jay Pastwa (Count 14)	✓	✓		2/2/10	
131	SAOAL/OSDME records of Calvin Drummond (Count 15)	✓	✓		2/2/10	
132	SAOAL/OSDME records of Carolyn Tatulinski (Count 16)	✓	✓		2/2/10	
133	SAOAL/OSDME records of Justin Willis (Count 17)	✓	✓		2/2/10	
134	SAOAL/OSDME records of Linda Salas (Count 18)	✓	✓		2/2/10	
135	SAOAL/OSDME records of Mary Rivas (Count 19)	✓	✓		2/2/10	
136	SAOAL/OSDME records of Jutta Garza (Count 20)	✓	✓		2/2/10	
137	SAOAL/OSDME records of J.D. Martinez	✓	✓		2/2/10	
138	United 1099 income statements to OSDME					
139	Handwritten statement of Eli Garcia 2-22-07					
140	Texas Secretary of State records pertaining to OSDME	✓	✓		2/2/10	
141	Donna Flippin Report contact with John Martinez 6-24-02	✓	✓		2/2/10	
142	Donna Flippin Report of contact w/ John Martinez 7-15-02	✓	✓		2/2/10	

Exhibit no.	Description	Marked	Offered	Object	Admitted	Not Admitted
143	Handwritten Statement of John Martinez 4-5-07	✓	✓		2/2/10	
144	Excerpts of Ingenix 2007 Expert HCPCS Level II provided to FBI by Jeanette Garcia on 2-25-09					
145	Excerpts of Ingenix 2007 Expert HCPCS Level II					
146	Excerpts of Ingenix 2002 Expert HCPCS Level II					
147	Excerpts of Ingenix 2003 Expert HCPCS Level II					
148	Excerpts of Ingenix 2004 Expert HCPCS Level II					
149	Excerpts of Ingenix 2005 Expert HCPCS Level II					
150	Excerpts of Ingenix 2006 Expert HCPCS Level II					
151	Excerpts of Ingenix 2008 Expert HCPCS Level II					
152	Written Handwritten Statement of Sixto Vargas 4-7-07					
153	SAOAL Bank checks Numbers 1072; 2216; 1134; 2568; 1226; 3063; 3166; 3875; 4120 to OSDME					
154	Summary of exhibit 153					
155	Medicaid Provider Manual 2002					
156	Medicaid Provider Manual 2003					
157	Medicaid Provider Manual 2004					

Exhibit no.	Description	Marked	Offered	Object	Admitted	Not Admitted
158	Medicaid Provider Manual 2005					
159	Medicaid Provider Manual 2006					
160	Medicaid Provider Manual 2007					
161	Medicaid Provider Manual 2008					
162	Ingenix 2002 Expert HCPCS Level II					
163	Ingenix 2003 Expert HCPCS Level II					
164	Ingenix 2004 Expert HCPCS Level II					
165	Ingenix 2005 Expert HCPCS Level II					
166	Ingenix 2006 Expert HCPCS Level II					
167	Ingenix 2007 Expert HCPCS Level II					
168	Ingenix 2008 Expert HCPCS Level II					
170	OSDME billings to UNITED for SAOAL patients	✓	✓		2/5/10	
171	Summary of 170					
172	SAOAL record of OSDME payments (SAOAL Bates 04470)					
173	SAOAL/OSDME records (SAOAL Bates 07236 to 07249)					

Exhibit no.	Description	Marked	Offered	Object	Admitted	Not Admitted
174	SAOAL/OSDME records (SAOAL Bates 04556 to 04574)	✓	✓		2/5/10	
175	SAOL discovery to government Bates 00001 to 07348					
176	OSDME Fax dated 9-17-04	✓	✓		2/8/10	
177	Home Care Network Participation Agreement	✓	✓		2/5/10	
178	Facility Participation Agreement	✓	✓		2/5/10	
180	HCPCS - Millennium Edition Health Care Procedure Coding 2002	✓	✓		2/5/10	
181	Orthotic Documentation Report - Sister JoAnn Saenz	✓	✓		2/10/10	
182	Communications Call Log Sister JoAnn Saenz	✓	✓		2/10/10	